



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: JULY 07, 2023

IN THE MATTER OF:

Appeal Board No. 628910

PRESENT: JUNE F. O'NEILL, MEMBER

The Department of Labor issued the initial determination disqualifying the claimant from receiving benefits, effective January 2, 2023, on the basis that the claimant voluntarily separated from employment without good cause. The claimant requested a hearing.

The Administrative Law Judge held a telephone conference hearing at which testimony was taken. There were appearances by the claimant and on behalf of the employer. By decision filed March 31, 2023 (), the Administrative Law Judge overruled the initial determination.

The employer appealed the Judge's decision to the Appeal Board.

Our review of the record reveals that the case should be remanded to hold a further hearing. The record was not sufficiently developed on the determination of voluntary separation. The parties should have another opportunity to submit additional testimony and other evidence on this issue.

At the further hearing, the parties are placed on notice that additional testimony and evidence will be taken as to whether the claimant took reasonable steps to preserve his employment prior to his separation from his employment.

The parties will testify regarding the reason for the claimant's loss of his driver's license,

the multiple methods of commuting from the claimant's home to the Copiague

office and for each commuting method, the following: (1) the distance and duration from claimant's home to the nearest bus stop or train station, (2) the distance and duration to the next transfer point (if any), and lastly, (3) the distance and duration from the final bus stop or train station to the Copiague office.

In furtherance of such testimony, the parties will produce relevant bus and train schedules. The parties will also be confronted with the Summary of Interviews from the claimant and the employer dated January 31, 2023. These documents shall all be entered into the record after an opportunity for objection.

The Judge will then take all additional testimony and evidence necessary to complete the record.

Now, based on the foregoing, it is

ORDERED, that the decision of the Administrative Law Judge be, and the same hereby is, rescinded; and it is further

ORDERED, that the case shall be, and the same hereby is, remanded to the Hearing Section to hold a hearing on the issue ONLY, upon due notice to all parties and their representatives; and it is further

ORDERED, that the hearing shall be conducted so that there has been an opportunity for the above action to be taken, and so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render a new decision, on the issue, which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

JUNE F. O'NEILL, MEMBER